

FACTUAL RÉSUMÉ

UNITED STATES OF AMERICA V. SHANE POWERS

No. 5:08-CR-032-C - LUBBOCK DIVISION - NORTHERN DISTRICT OF TEXAS

CLERK, U.S. DISTRICT COURT

INDICTMENT:

TO BE ARRAIGNED ON COUNT SIX ONLY - Charging a violation of Title 18, United States Code, Section 844(e) - Threat to Kill, Injure, Intimidate, or Damage by Explosive Device and Fire

MAXIMUM PENALTY:

a term of imprisonment of not more than 10 years; a fine of not more than \$250,000 pursuant to 18 U.S.C. §3571(b)(3), or both; a term of supervised release which follows a term of imprisonment. 18 U.S.C. § 3583(b)(2) authorizes an initial term of supervised release of not more than three (3) years for this Class D felony. If the defendant violates the conditions of supervised release, he could be imprisoned and subject to additional terms of supervised release and imprisonment as determined by the Court in accordance with law; costs of incarceration and supervision; restitution to victims or to the community, which may be mandatory under the law, and which Powers agrees may include restitution arising from all relevant conduct, not limited to that arising from the offense of conviction alone.

MANDATORY ASSESSMENT:

\$100.00

PLEA AGREEMENT:

As set forth in the Plea Agreement letter attached hereto and incorporated herein.

ELEMENTS OF THE OFFENSE:

Title 18, United States Code, Section 844(e) makes it a Federal crime or offense for anyone to use an instrument of commerce, including the mail, to willfully communicate any threat to kill, injure or intimidate any individual or to unlawfully damage or destroy any building by means of fire or an explosive.

The elements of the offense of Threat to Kill, Injure, Intimidate, or Damage by Explosive Device and Fire are:

First: That the defendant made or caused to be made, a threat to kill, injure or intimidate any individual or to unlawfully damage or destroy a building by means of fire or an explosive as charged;

Second: That the defendant used, or caused to be used an instrument of commerce, such as the mail to communicate the threat; and

Third: That the defendant acted knowingly and willfully.

A “threat” means a statement expressing an intent to kill, injure or intimidate an individual or to unlawfully damage or destroy a building by means of fire or an explosive, and made with the intent that it be understood by others as a serious threat. It is not necessary to prove that the defendant actually intended to carry out the threat.

FACTS:

Defendant Shane Powers admits, acknowledges and confesses that on or about July 19, 2007, in the Lubbock Division of the Northern District of Texas, and elsewhere, he did, through the use of the mail, and in and affecting interstate commerce, willfully make a threat concerning an attempt, and alleged attempt being made, and to be made, to kill, injure and intimidate any individual, to wit: United States District Judge Mary Lou Robinson and individuals in the United States District Court for the Northern District of Texas, Amarillo Division, and to unlawfully damage and destroy a building, to wit: the J. Marvin Jones Federal Building located at 205 East 5th Street, Amarillo, Texas 79101, by means of explosive device and fire, all contrary to and in violation of Title 18, United States Code, Section 844(e).

Defendant Powers admits, acknowledges and confesses that on or about July 19, 2007, he knowingly and willfully caused a letter to be mailed from the Montford Unit of the Texas Department of Criminal Justice addressed to “Mary Lou

Robertson (sic), U.S. District Judge, 205 E 5th St., Amarillo, Texas 79101," which contained a threat to kill, injure or intimidate any individual and to unlawfully damage or destroy a building by means of fire or an explosive as alleged in Count 6 herein. Powers wrote on the envelope a return address of "Shane Powers #1045353, Montford Unit, 8602 Peach St, Lubbock, Tx 79404, where he was then incarcerated.

In the letter to Judge Mary Lou Robinson, Powers hand printed the following text:

"I'm sick and tired of your games you have been mistreaten (sic) Muslim world you will pay for you mistreaten (sic) I will blow up the USA I will wipe out USA and Israel off the map I plainly (sic) explosive device and will use them to put in your gasline I know exaccly (sic) were (sic) Gorge Bush lives I have pass through there several time It's 30 miles outside Waco tx if the Secret Service think they could stop us there (sic) in for surppize (sic) I will make sure Bush will be kill (sic) and anybody who stands on the way, I demand 12.6 millon (sic) dollers (sic) to be sent to my Qaeda (sic) Muslim brothers Sunni's (sic) and Shiites and if you don't follow my demands more people will die also I'm Shiites and I will be release (sic) in a year and a half or two years

fallen Angel Worrior (sic)
Shane Powers #1045353
Muslim Shiites Shaka Mohummad

Powers admits and acknowledges that he made these statements expressing an intent to kill, injure or intimidate an individual and to unlawfully damage or destroy a building by means of fire or an explosive, and that he made the threats with the intent that they be understood by others as serious threats. The statement that he had or would plant an explosive device in your gasline was intended to convey a threat to unlawfully damage and destroy a building, that is, the J. Marvin Jones Federal Building located at 205 East 5th

Street, Amarillo, Texas 79101, by means of explosive device or fire. Powers admits that by writing the words that he planted an explosive devise and would put explosive devices in the gasline, he willfully make a threat concerning an attempt, and alleged attempt being made, and to be made, to kill, injure or intimidate any individual, that is, United States District Judge Mary Lou Robinson (to whom the letter was addressed) and individuals in the United States District Court for the Northern District of Texas, Amarillo Division, in that the natural consequence of placing an explosive devise in a building's gasline would be to destroy the building, injuring or killing the inhabitants of the building.

Powers was interviewed by Secret Service Special Agent Cloey Chancy Pierce on February 27, 2008. After advise and waiver of Miranda rights, Powers admitted that he wrote this letter and the others charged in the indictment to express his feelings of hate for the government.

An expert in handwriting analysis compared the writing in this letter with known handwriting exemplars of the defendant and concluded in his expert opinion that Powers was the author of the questioned document set forth above.

Powers admits, acknowledges and confesses that he made and caused to be made, a threat to kill, injure or intimidate the individuals set forth in Count 6, and that he made, and caused to be made a threat to unlawfully damage or destroy the J. Marvin Jones Federal Building located at 205 East 5th Street, Amarillo, Texas 79101, by means of an explosive device and fire as charged; that he used, and caused to be used an instrument of commerce, specifically, the mail, to communicate the threat; and that in so doing he acted knowingly and willfully.

Powers further admits that his statements expressed an intent to kill, injure or intimidate an individual and to unlawfully damage or destroy a building by means of fire or an explosive,

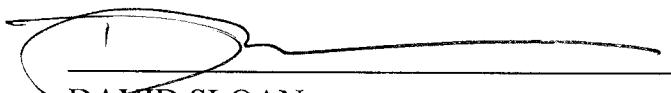
and that he made the statements with the intent that they be understood by others as serious threats.

The above facts are true and correct:

X Shane Powers

SHANE POWERS
Defendant

APPROVED:



DAVID SLOAN
Assistant Federal Public Defender
Attorney for Defendant